

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

GLENN S. BATES,)
Plaintiff)
v.)
CHRISTOPHER KENDER and)
BARRY MITCHELL)
Defendants)

)

) C.A. NO. 05-10489-NMG
)

PLAINTIFF'S PROPOSED VERDICT SLIP

The Plaintiff respectfully requests that the following verdict slip be presented to the jury.

Count I: Violation of 42 U.S.C., Section 1983

In regards to plaintiff's claim for violation of United States Code, Title 42, Section 1983, set forth your answers to the following questions:

1. Were defendants Barry Mitchell and Christopher Kender acting under color of law when they attempted to place plaintiff Glenn Bates in custody on November 30, 2001?

Yes _____

No _____

(If the answer is yes, proceed to Question 2. If no, please proceed to Count II)

2. Did defendants deprive the plaintiff Glenn Bates of one or more constitutional rights, to wit, his right to be free from excessive use of force?

Yes _____

No _____

(If the answer is yes, proceed to Question 3. If no, please proceed to Count II)

3. Did the deprivation of Plaintiff's rights, cause harm to the Plaintiff.

Yes _____

No _____

(If the answer is yes, proceed to Question 4. If no, please proceed to Count II)

4. Please set forth the damages (in dollars) you have determined for each of the following category of damages.

(a) The physical harm to the plaintiff during and after the impairment, including ill health, physical pain, disability, disfigurement, or discomfort, and any such physical pain, disability, and discomfort which plaintiff will, with reasonable certainty, suffer in the future.

Amount: \$_____

(b) The emotional and mental harm to the plaintiff during and after the incident, including fear, humiliation, and mental anguish, and any emotional harm, fear, or mental anguish that plaintiff will, with reasonable certainty, suffer in the future.

Amount: \$_____

(c) The extent and duration of the injuries, including their continuation in the future.

Amount: \$_____

5. Do you determine that the Plaintiff is entitled to interest and punitive damages?

Yes_____ No_____

(If yes, go to Question 6. If no, go to Count II)

6. What amount do you award for punitive damages?

Amount: \$_____

Count II: Intentional Infliction of Emotional Distress

In regards to plaintiff's claim for intentional or reckless infliction of emotional distress, please answer the following questions:

1. Did defendants (a) intend to inflict emotional distress upon plaintiff or (b) should defendants have known that emotional distress was the likely to result from their conduct?

Yes_____ No_____

(If the answer is yes, proceed to Question 2. If no, please proceed to Count III)

2. Was the defendants' conduct extreme and outrageous, beyond all possible bounds of decency and utterly intolerable in a civilized community?

Yes_____ No_____

(If the answer is yes, proceed to Question 3. If no, please proceed to Count III)

3. Did defendants' conduct cause plaintiff's emotional distress?

Yes_____ No_____

(If the answer is yes, proceed to Question 4. If no, please proceed to Count III)

4. Was the emotional distress suffered severe and of a nature that no reasonable person could be expected to endure it?

Yes_____ No_____

(If the answer is yes, proceed to Question 5. If no, please proceed to Count III)

5. What amount of damages shall compensate Plaintiff for the emotional distress caused by Defendants?

Amount: \$_____

Count III: Assault

1. Do you find that the defendants either (a) intentionally threatened or (b) attempted to cause harm to the plaintiff?

Yes_____ No_____

(If the answer is yes, proceed to Question 2. If no, please proceed to Count IV)

2. Do you find that the defendants had the ability to cause Plaintiff such harm?

Yes_____ No_____

(If the answer is yes, proceed to Question 3. If no, please proceed to Count IV)

3. Do you find that plaintiff reasonably feared defendants would cause him such harm?

Yes_____ No_____

(If the answer is yes, proceed to Question 4. If no, please proceed to Count IV)

4. What amount of damages shall compensate Plaintiff for such harm?

Amount: \$_____

Count IV: Battery

1. Did Defendants commit an intentional, harmful, and nonconsensual contact with the Plaintiff's person?

Yes_____ No_____

(If the answer is yes, proceed to Question 2. If no, please submit this Verdict Slip to the Clerk)

2. Did such contact harm Plaintiff?

Yes _____ No _____

(If the answer is yes, proceed to Question 3. If no, please submit this Verdict Slip to the Clerk)

3. What amount of damages shall compensate Plaintiff for such harm?

Amount: \$ _____

Respectfully submitted,

PLAINTIFF GLENN BATES,

By his attorney,

/s/ Timothy J. Perry

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Certificate Regarding Service

I hereby certify that this document was served upon all counsel of record by the Court's ECF system.

Date: February 26, 2008

/s/ Timothy J. Perry

Timothy J. Perry